UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte DANIEL RICHARD SCHNEIDEWEND, JEROME PAUL GEIS,
DARREL WAYNE RANDALL, MICHAEL JOSEPH MCLANE,
MEGAN LOUISE BROWN, and MARK SHERIDAN WESTLAKE

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Appeal 2008-2877
Application 09/445,268
Technology Center 2600

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Mailed: July 29, 2008

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Before DALE M. SHAW, *Chief Appeals Administrator*

SHAW, *Chief Appeals Administrator.*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 4, 2008. A docketing notice was mailed and Appeal No. 2008-2877 was assigned on April 15, 2008. A review of the application has revealed that the application was not ready for an appeal.

Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 16 and 17 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008 the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled "Clarification of "Processes" under 35 U.S.C. §101." This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. There is a question as to whether claims 16 and 17 meet the requirements of being patent eligible process under 35 U.S.C. § 101.

Accordingly, it is **ORDERED** that the application is remanded to the Examiner to determine if claims 16 and 17 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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Joseph J. Laks
Thomson Licensing L.L.C.
2 Independence Way, Patent Operations
P. O. Box 5312
Princeton, NJ 08543